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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,847	03/09/2001	Seok- Il Yoon	12652-004001	6594

7590 05/20/2003

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EXAMINER

DICUS, TAMRA

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS 11

Office Action Summary

Application No. 09/786,847		Applicant(s) YOON ET AL.	
Examiner Tamra L. Dicus		Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner acknowledges the Request for Continuing Examination.
2. The 112 rejection is maintained for reasons of record, prior Office Action dated Nov. 25, 2002, Paper No. 7.
3. The 102(b) rejection is withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,840,406 to Nilsen.
3. Nilsen shows a retroreflective prism structure comprising a front and rear structured surface comprising a continuous arrangement of three triangles mutually perpendicular and have a common point and windows 10F (triagonal linear prisms) disposed along at least one of the edges of the sides of the three triangles (Figures 1 and 7). Nilsen shows that the windows 10F lie in a common plane and in different planes (Figures 8-9). Nilsen shows that the indices of refraction of the retroreflective prism structure is from 1.4 to 1.7 (col. 3, lines 13-14). Nilsen shows that an axis which extends from the common point to the surface 16, is tilted by within – 15 to 15 degrees to an axis normal to the surface 16 of the retroreflective prism structure (Figure

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7). Nilsen shows that one or more of the windows 10F are disposed along one edge of one of the three triangles (Figure 1). Nilsen shows that the edges of the triangle can have different lengths from each other (Figures 6, 8, and 10). While Nilsen does not teach the thickness requirements as recited in claim 1, the apex and front surface distance differential address the size of retroreflective article. Nilsen teaches the spacing and sizes can be adjusted to provided the desired back lighting at col. 4, lines 15-30. The same degree tilts are taught in col. 3, lines 30-35, col. 6, line 65-col. 7, line 2, and Tables I-IV, to optimize the pattern of light. In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

4. Further addressing new limitation found in claim 11 to the continuous array of linear triangular liner prisms sharing a common base edge, Nilsen also teaches this in Figure 8.

Response to Arguments

The Nilsen reference is still relied upon because Nilsen shows three triangles having a common edge (Figure 8, (50)) and col. 3, lines 60-68. The Applicant states the distance between the apex and front surface are different, and therefore Applicant believes Nilsen does not teach the instant invention. The Examiner does not agree. The apex and front surface distance differential address the size of retroreflective article. Nilsen teaches the spacing and sizes can be adjusted to provided the desired back lighting at col. 4, lines 15-30. The same degree tilts are

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taught in col. 3, lines 30-35, col. 6, line 65-col. 7, line 2, and Tables I-IV, to optimize the pattern of light. No distinctions are seen.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is (703) 305-3809. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8329 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Tamra L. Dicus
Examiner
Art Unit 1774

May 19, 2003



MARIE YAMNITZKY
PRIMARY EXAMINER

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